

Prevailing Wage Program Opinion Letter January 4, 2010

PW opinion-01-04-10

January 4, 2010

Re: Applicability of c. 149 § 27H to Town of XXXX (PW-2010-01-1.4.10)

I am writing in response to your letter, dated December 18, 2009, requesting a written opinion from the Division of Occupational Safety ("DOS"), regarding the applicability of the Massachusetts' prevailing wage law, c. 149, §§ 26 and 27, to outside custodial cleaning services provided to the Town of XXXX School Department.

Chapter 149, § 27H provides, in relevant part, that "no agreement or contract providing for the cleaning and maintenance of public buildings or space rented by the commonwealth, shall be entered into or given by the commonwealth unless said contract or agreement contains a stipulation requiring prescribed rates of wages . . . to be paid to the employees of the maintenance or cleaning contractor." Accordingly, employees of contractors which provide cleaning and maintenance services for public buildings, either owned or rented *by the commonwealth*, are required to be paid prevailing wages. The plain language of the statute does not extend the applicability of this requirement to towns or cities. [\[1\]](#) Accordingly, contractors for custodial services awarded by the Town of XXXX to clean its public school buildings are not subject to the prevailing wage requirements of §27H.

I hope this information is helpful to you. Please feel free to call the DOS if you have further questions.

Sincerely,
Patricia A. DeAngelis
Legal Counsel

[\[1\]](#) Contrast with §§ 26, 27F, and 27G which apply to contracts by "the commonwealth, or by a county, town, authority or district"